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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/032,518	12/27/2001	Steven Lurie	4704P021	6881

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EXAMINER

BENGZON, GREG C

ART UNIT	PAPER NUMBER
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2144

DATE MAILED: 08/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/032,518

Applicant(s)

LURIE, STEVEN

Examiner

Greg Bengzon

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 July 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 4-12, 14-16, 18-21, 24-32, 34-36 and 38-45 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 4-12, 14-16, 18-21, 24-32, 34-36, 38-45 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

This application has been examined. Claims 1, 4-12, 14-16, 18-21, 24-32, 34-36, 38-45 are pending. Claims 2-3, 13, 17, 22-23, 33, and 37 have been cancelled.

Priority

The effective date of the subject matter in the claims in this application is December 27, 2001.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 4-8, 10-12, 14-16, 18, 21, 24-28, 30-32, 34-36, 38, 41-44 are rejected under 35 U.S.C. 103(a) as being anticipated by Pugliese et al. (US Publication 2001/0044751) hereinafter referred to as Pugliese, in view of Whyel (US Publication 2001/0027481).

With respect to Claim 1, Pugliese disclosed a method comprising: receiving, from a service seeker, an appointment request for a live advice communication with a

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selected service provider during a specified appointment time; (Pugliese - Figures 4-7, 18-20 Paragraph 115) providing the appointment request to the selected service provider; (Pugliese - Paragraph 207-209) once the appointment request is accepted by the selected service provider, initiating a live advice communication appointment between the service seeker and the selected service provider; (Pugliese – Paragraph 322, Paragraph 327) and connecting the selected service provider with the service seeker for a live advice communication at the specified appointment time. (Pugliese - Paragraph 211)

The Examiner notes that Pugliese disclosed a method for instantaneous live advice communication, but does not disclose a scheduling method for said live advice session, wherein the service seeker and the service provider are able to mutually agree on an appointment schedule in advance. With respect to Claim 1, Pugliese did not disclose wherein providing the appointment request further comprises: determining whether the selected service provider is available during the service seeker specified appointment time; when the selected service provider is unavailable during the appointment time, determining one or more available appointment times of the selected service provider; providing the one or more alternate appointment times to the service seeker; and receiving a selected appointment time from the one or more alternate appointment times once selected by the service seeker.

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Since Pugliese states that frustration and lack of personal attention is the main reason for a buyer terminating an online purchase, Pugliese makes an effort to provide a live salesperson, and even allows for other shoppers to join in the session.

(Paragraph 7-8) The Examiner respectfully notes that during peak shopping hours, peak shopping seasons, or a sudden upward spike in demand for a product, the on-demand scheduling system by Pugliese would be quickly be inundated, overwhelmed and be rendered unsatisfactory since shoppers would have long wait times while the system routes requests to the next available live agent, thus defeating the original intent of Pugliese. Thus Pugliese would have found it appropriate and advantageous to search for and implement a call-ahead feature to enable shoppers to schedule an appointment in advance and avoid long wait times during said peak hours.

Whyel disclosed a method for appointment scheduling for live consultation with service providers.

With respect to Claim 1, Whyel disclosed scheduling a live advice appointment session with a service provider. (Figures 13A thru 14C, Paragraph 13-15, Paragraph 65, Paragraph 82) Whyel disclosed wherein providing the appointment request further comprises: determining whether the selected service provider is available during the service seeker specified appointment time; (Whyel – Figure 13B Item 1350) when the selected service provider is unavailable during the appointment time, determining one or more available appointment times of the selected service provider; (Whyel – Figure 13B

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Item 1355) providing the one or more alternate appointment times to the service seeker; (Whyel – Figure 13B Item 1360), and receiving a selected appointment time from the one or more alternate appointment times once selected by the service seeker. (Whyel – Figure 13B, Item 1370, Paragraph 108 thru Paragraph 115)

Pugliese and Whyel are analogous art because they present concepts and practices regarding facilitation of live advice communication between service seekers and service providers. (Pugliese – Paragraph 8, Whyel – Paragraph 14) The Examiner respectfully suggests that at the time of the invention it would have been obvious to combine the teachings of Whyel regarding scheduling of incoming communication requests into the system and method of Pugliese. The said combination would enable the combined system of Pugliese to 1) enable the service seeker to determine availability of the service provider in advance of the live session, and 2) enable service provider to screen, filter, redirect, or defer incoming service requests. The suggested motivation for doing so would be, as Whyel suggests (Whyel - Paragraph 10), to overcome requirements for human intervention for implementing appointment reservations and scheduling.

The combination of Pugliese and Whyel disclosed Claim 4 - the method of claim 1, wherein providing the appointment request further comprises: requesting a deposit from the service seeker; once the deposit is received from the service seeker, (Whyel -

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Figure 7, Item 716 –718, Paragraph 70, Paragraph 83) verifying a telephone number of the service seeker; and once the service seeker telephone number is verified, sending an appointment request confirmation to the service seeker. (Whyel - Paragraph 87)

The combination of Pugliese and Whyel disclosed Claim 5 - the method of claim 1, wherein scheduling the live advice communication appointment further comprises: determining whether an appointment acceptance is received from the selected service provider; once the appointment acceptance is received from the selected service provider, sending an appointment confirmation to the service seeker; and sending an appointment confirmation to the selected service provider. (Whyel - Paragraph 14)

The combination of Pugliese and Whyel disclosed Claim 6 - the method of claim 1, wherein connecting the selected service provider and the service seeker further comprises: contacting the service seeker via a communications device; once the service seeker accepts a communication connection from the service provider system, contacting the selected service provider via a communications device; (Pugliese – Paragraph 322) and once the selected service provider accepts a communications connection from the service provider system, linking the service seeker and the selected service provider via the communications devices for a live advice communication therebetween. (Pugliese - Paragraph 115)

The combination of Pugliese and Whyel disclosed Claim 7 - the method of claim 6, wherein linking the service seeker and the selected service provider further

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comprises: when the selected service provider fails to accept the communications connection from the service provider system, contacting an alternate system selected service provider within a field of service of the selected service provider as an alternate service provider; and once the alternate service provider accepts the communications connection from the service provider system, linking the alternate service provider and the service seeker via the communications devices for a live advice communication therebetween. (Pugliese - Figure 6, Paragraph 118, Paragraph 207-211)

The combination of Pugliese and Whyel disclosed Claim 8 - the method of claim 7, further comprising: once the call between the service seeker and the alternate service provider is complete, providing the service seeker with a gift from the selected service provider. (Pugliese- Paragraph 340, Paragraph 353)

The combination of Pugliese and Whyel disclosed Claim 10 - the method of claim 1, wherein providing the appointment request further comprises: generating a service seeker appointment alert within an appointment screen of the selected service provider, wherein the appointment screen includes a list of each service provider accepted appointment and a list of alerts for each pending appointment requests received by the selected service provider. (Whyel - Paragraph 43, Paragraph 65)

The combination of Pugliese and Whyel disclosed Claim 16 and Claim 36 - wherein receiving the appointment request further comprises: viewing an appointments listing page of the selected service provider, (Whyel - Paragraph 43, Paragraph 65) including a listing of each accepted appointment request of the selected service provider (Whyel- Figure 8) and a listing of one or more appointment alerts for pending appointment requests of the selected service provider; (Whyel – Figure 14C) selecting an appointment alert from the one or more alerts listed in the service provider appointment screen; when the service provider is available at an appointment time specified in the appointment alert, accepting the selected appointment alert; and otherwise, declining the selected appointment alert. (Whyel - Paragraph 108 thru Paragraph 115)

With respect to Claims 11-12, 14-16 and 18, the Applicant disclosed a method with the same limitations as described in Claims 1, 4-8 and 10. Claims 11-12, 14-16 and 18 are rejected on the same basis as Claims 1, 4-8 and 10.

With respect to Claims 21, 24-28, the Applicant disclosed a method with the same limitations as described in Claims 1, 4-8 and 10. Claims 21, 24-28 are rejected on the same basis as Claims 1, 4-8 and 10.

With respect to Claims 30-32, 34-36, and 38 the Applicant disclosed a method with the same limitations as described in Claims 1, 4-8 and 10. Claims 30-32, 34-36, and 38 are rejected on the same basis as Claims 1, 4-8 and 10.

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With respect to Claims 41-44, the Applicant disclosed a system with the same limitations as described in Claims 1, 4-8 and 10. Claims 41-44 are rejected on the same basis as Claims 1, 4-8 and 10.

Claims 9, 19, 20, 29, 39, 40, and 45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pugliese (US Publication 2001/0044751), in view of Whyel (US Publication 2001/0027481), as applied above, further in view of Dolan et al. (US Patent 6477246), hereinafter referred to as Dolan.

With respect to Claims 9, 19, 20, 29, 39, 40, and 45, the combined teachings of Pugliese and Whyel substantially disclose the method and system as described.

However the combined teachings of Pugliese and Whyel do not disclose certain features of the claimed invention, such as the service provider receiving an appointment notification while already engaged by a current service seeker. The Examiner notes that while scheduled appointments are a fair indication of general availability, the actual start and end times for scheduled appointments are highly unpredictable. A successful service provider would be loathe to leave a customer in the middle of a sale, and would make all efforts to retain current customer focus despite expiration of scheduled appointment, without disrespecting the next scheduled customer. Thus Pugliese would

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have found it appropriate and advantageous to search for and implement a system for adjusting schedules on an ad-hoc basis while still maintaining the current customer session.

Dolan disclosed a method for processing incoming communication requests while currently engaged in another communication session. Dolan allows for mediation of the incoming requests without disrupting the current session. (Dolan - Figure 3, Figure 4, Column 3 Lines 30-65, Column 4 Lines 1-45, Column 6 Lines 30-45)

Dolan disclosed wherein the service provider is engaged in a live advice communication during the service provider system communication connection, notifying the service provider of the scheduled advice communication appointment; (Dolan Column 5 Lines 20-25) receiving a response from the service provider to accept/reject the appointment notification; (Dolan - Column 3 Lines 55-65) when the selected service provider accepts the appointment notification, terminating the live advice communication with a current service seeker; and once the advice communication is terminated, (Dolan - Column 6 Lines 25-35) linking the selected service provider and the service seeker via the communications devices for a live advice communication. (Dolan - Column 6 Lines 15-20)

Pugliese, Whyel and Dolan are analogous art because they present concepts and practices regarding scheduling and managing appointments between a service seeker and a service provider, in the context of live consultation sessions. (Dolan -

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Column 1 Lines 40-45) At the time of the invention it would have been obvious to combine the teachings of Dolan regarding mediation of incoming communication requests into the combined system and method of Pugliese and Whyel. The said combination would enable the combined system of Pugliese and Whyel to 1) alert the service provider of an incoming service request during an ongoing consultation session, and 2) enable service provider of the combined system of Pugliese and Whyel to screen, filter, redirect, or defer incoming service requests while preventing disruption of the current communication session. The motivation for doing so would be, as Dolan suggests (Dolan - Column 1 Lines 30-55), to overcome the limitations of simple non-interactive call redirection or call forwarding systems, which do not place any context on the incoming request, nor provide any indication of next available time slot for the service provider, nor allow for impromptu 'return-call' scheduling with confirmation from both parties.

Response to Arguments

Applicant's arguments filed 07/08/2005 have been fully considered but they are not persuasive.

The Applicant presents the following argument(s) [*in italics*]:

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Applicant's independent claims include claim limitations that are not disclosed nor suggested by the Pugliese or Whyel. Therefore, applicant's independent claims are patentable over Pugliese and Whyel.

In particular, applicant's independent claims include the claim limitation, or limitation similar thereto, of:

determining whether the selected service provider is available

During the service seeker specified appointment time;

when the selected service provider is unavailable during the appointment time, determining one or more available appointment times of the selected service provider;

providing the one or more alternate appointment times to the service seeker; and

receiving a selected appointment time from the one or more alternate appointment times once selected by the service seeker;

when the selected service provider is available during the service seeker specified appointment time, providing the appointment request to the selected service provider; (Applicant's independent claim 1 as amended.)

The Examiner respectfully disagrees with the Applicant. The said limitations were disclosed by the combination of Pugliese and Whyel, as described in the rejection based USC 103(a) shown above.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Greg Bengzon whose telephone number is (571) 272-3944. The examiner can normally be reached on Mon. thru Fri. 8 AM - 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wiley can be reached on (571) 272-3923. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


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